



City of Dublin Board of Zoning Appeals

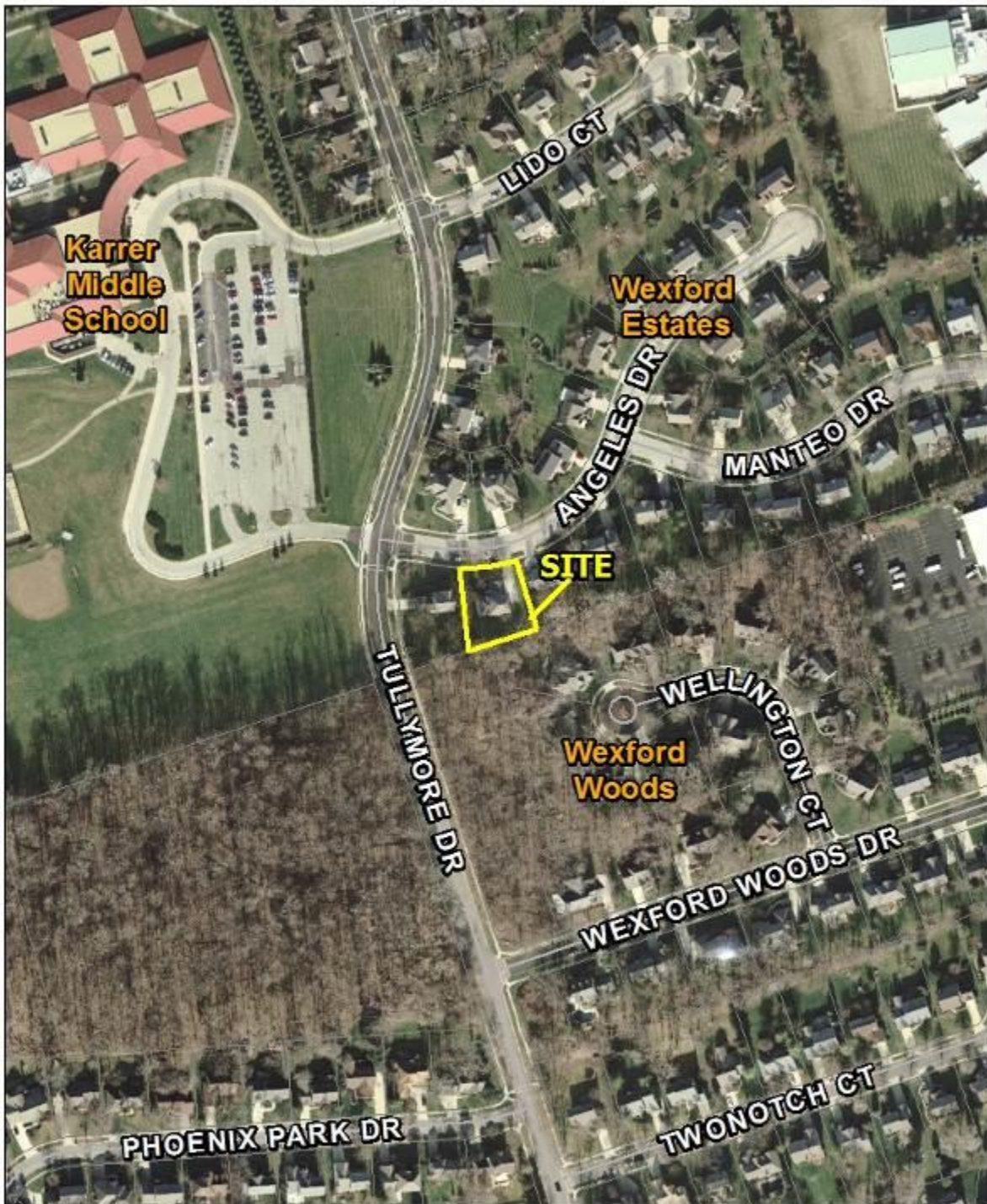
# Planning Report

Thursday, June 25, 2015

**6369 Angeles Drive**

## Case Summary

Agenda Number	3
Case Number	15-054V
Location	6369 Angeles Drive South side of Angeles Drive approximately 100 east of Tullymore Drive.
Proposal	To construct a patio that is located 9 feet, 4 inches within the rear yard setback.
Request	Non-use (area) variance to Section 153.053(G)(2)(a) to permit a patio that extends 9 feet, 4 inches into the rear yard setback.  Requires review and approval by the Board of Zoning Appeals based on the review criteria of Zoning Code Section 153.231.
Applicants	Anne and William Remias, Property Owners.
Planners:	Tammy Noble, Senior Planner.
Planning Contact:	(614) 410-4649 or tnoble@dublin.oh.us
Planning Recommendation	<b>Approval</b> Based on Planning's analysis, the request meets the review criteria for a non-use (area) variance and approval is recommended.



City of Dublin

15-054V  
Non-Use Variance  
Remias Residence  
6369 Angeles Drive

0 150 300  
Feet



## Facts

### Site Description

The site is 0.31 acres with 95 feet of frontage along Angeles Drive and is 141 feet deep, at the widest point. The site abuts a large reserve area for Wexford Woods, and another large residential lot to the rear. The site has a single-family, residential structure of 2,575 square feet. The house is located on the front building line and has a front loaded garage that results in the livable space of the house being located 13 feet into the property.

The house currently has a patio that was constructed approximately 8 feet into the rear yard setback, as well as the No Build Zone. This patio was constructed prior to the current property owners acquiring the site and according to GIS, prior to the City requiring permits for patios and decks which was first implemented in 2005. The proposed patio will replace the existing patio and encroach into the rear yard setback by 9 feet, 4 inches at its furthest point.



Other features of the site include a mature tree line along the rear of the property and a mechanical unit to the east of the existing patio. This limits the area to the east in which to construct the patio.

If the variance is approved, the applicants will also be required to pursue an amended final development plan and final plat to modify the No Build Zone in a location that would permit the proposed patio.

### Zoning

PLR, Planned Low-Density Residential District; Wyndham Village PLR.

### Surrounding Zoning and Uses

North: PLR, Planned Low-Density, Residential District and located in the Wyndham Village PLR. The uses are single-family, residential homes.  
East: PLR, Planned Low-Density, Residential District and located in the Wyndham Village PLR. The uses are single-family, residential homes.  
South: PUD, Planned Unit Development District and located in the Wexford Woods PUD.

## Facts

	West: PLR, Planned Low-Density, Residential District and located in the Wyndham Village PLR and is vacant.
Proposal	The applicant is proposing to remove the existing approximately 13 feet by 13 feet at grade patio with a more curved, wider patio with a 20 inch seating wall. The required setback for the property is 35 feet 5 inches and the proposed patio will extend into the setback by 9 feet, 4 inches, at its widest point.

## Details

### Rear Yard Setback

Process	Zoning Code Section 153.231(C)(3) allows the Board of Zoning Appeals to approve requests for non-use (area) variances only in cases where the Board finds there is evidence of a practical difficulty present on the property, limiting conformance to the strict requirements of the Zoning Code. The Board shall make a finding that the required review standards have been appropriately satisfied (refer to the last page of this report for the full wording of the review standards).
Variance Request	<p>Section 153.053(G)(2)(a) of the City of Dublin Zoning Code that all lots located within planned districts to request variance for all construction that does not meet the required development standards of the approved final development plan. In this instance, the site is located within a planned district and is proposing a patio that will extend into the required rear yard setback by 9 feet, 4 inches.</p> <p>To meet the Code, the applicant would have approximately 9 feet in which to construct a patio, two feet of which is affected by a bay window. This would permit a usable outdoor space of 7 feet. The applicant has stated that this is not a suitable space for outdoor amenities.</p>

## Analysis

### Rear Yard Setback

#### ***ALL THREE OF THE FOLLOWING STANDARDS MUST BE MET***

(1) <i>Special Conditions</i>	<p><b>Standard Met.</b> The front loaded garage pushes the house further into the lot which affects the usable amount of space that the applicants have to the rear of the yard. Furthermore, the lot abuts a reserve that prohibits development of the adjacent site and the area is heavily wooded precluding any visibility to the site. Finally there are several issues to the east and west of the patio that make relocating the patio space impractical including an air conditioning unit to the east and the driveway to the west. These conditions result in unique conditions for the site.</p>
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Analysis	Rear Yard Setback
(2) <i>Applicant Action/Inaction</i>	<b>Standard Met.</b> The existing patio was constructed by previous owners therefore, the existing encroachment was the result of those owners.
(3) <i>No Substantial Adverse Effect</i>	<b>Standard Met.</b> The area adjacent to the proposed patio is located contiguous to a large reserve area. The closest property to the south is over 360 feet from the site. There will be no adverse effect from this proposal.
<b><i>AT LEAST TWO OF THE FOLLOWING FOUR STANDARDS MUST BE MET</i></b>	
(1) <i>Special Privileges</i>	<p>The following standards have been reviewed with the finding that three standards have been met.</p> <p><b>Standard Met.</b> The Board has granted variances for lots with similar conditions based on the design of the site and its proximity to land that is undevelopable, whether it is a reserve, easement or simply convents. If approved, this action will not offer special privileges to the applicants.</p>
(2) <i>Recurrent in Nature</i>	<p><b>Standard Met.</b> This type of request (requests for much larger outdoor spaces) is becoming more common but has not risen to the degree of “recurrent” where a Code revision is urgently needed. However, as a proactive method of addressing the issue, Planning is researching other potential means for siting decks and patios.</p>
(3) <i>Delivery of Governmental Services</i>	<p><b>Standard Met.</b> This request will not impact the delivery of governmental services.</p>
(4) <i>Other Method Available</i>	<p><b>Standard Met.</b> The applicants could modify the plan to meet Code but it would result in a patio with 7 feet of usable space based on the existing bay window. Seven feet is fairly narrow for outdoor space and would result in an area that would not accommodate common elements of outdoor space such as chairs, tables, and grills. This would result in an area that is impractical.</p>

<b>Recommendation</b>	<b>Approval</b>
Approval	Based on Planning's analysis the requested variance meets the required non-use (area) variance standards, therefore approval of the variance is recommended.

## NON-USE (AREA) VARIANCES

### Section 153.231(H)(1) Variance Procedures

On a particular property, extraordinary circumstances may exist making a strict enforcement of the applicable development requirements of this Code unreasonable and, therefore, the variance procedure is provided to allow the flexibility necessary to adapt to changed or unusual conditions that meet the standards of review for variances. In granting any variance, the Board of Zoning Appeals shall prescribe appropriate conditions and safeguards to maintain the intent and spirit of the zoning district in conformity with the Zoning Code.

*Non-Use (Area) Variances.* Upon application, the Board of Zoning Appeals shall only approve a request for a non-use variance only in cases where there is evidence of practical difficulty present on the property in the official record of the hearing, and that the findings required in (a) and (b) have been satisfied with respect to the required standards of review (refer to the last page of this Report for the full wording of the review standards):

**(a) That all of the following three findings are made:**

- (1) That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district whereby the literal enforcement of the requirements of this Chapter would involve practical difficulties. Special conditions or circumstances may include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this Chapter or amendment; or by reason of exceptional topographic or environmental conditions or other extraordinary situation on the land, building or structure; or by reason of the use or development of the property immediately adjoining the property in question.*
- (2) That the variance is not necessitated because of any action or inaction of the applicant.*
- (3) Granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity or will not materially impair the intent and purposes of the requirement being varied or of this Chapter.*

**(b) That at least two of the following four findings are made:**

- (1) That a literal interpretation of the provisions of the Zoning Code would not confer on the applicant any special privilege or deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter.*
- (2) The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for those conditions reasonably practicable.*
- (3) The variance would not adversely affect the delivery of governmental services (e.g., water, sewer, garbage).*
- (4) The practical difficulty could be eliminated by some other method, even if the solution is less convenient or most costly to achieve.*